



03 NOV 2006

23552  
MERCHANT & GOULD PC  
P.O. Box 2903  
Minneapolis, MN 55402-0903

In re Application of  
WALDNER *et al*  
Application No.: 10/538,515  
PCT No.: PCT/EP03/13959  
Int. Filing Date: 09 December 2003  
Priority Date: 09 December 2002  
Attorney Docket No.: 12684.0015USWO  
For: INHALATION THERAPY DEVICE

**DECISION**

This decision is in response to the "Petition Under 37 C.F.R. §1.182" to change the name of an inventor filed 09 August 2006.

**BACKGROUND**

On 14 October 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 10 November 2005, applicants filed an executed declaration and surcharge fee. The name of the second named inventor was listed as Daniela MUNDENBRUCH on the declaration. However, the surname was listed as HAUSER on the international publication.

On 14 July 2006, a communication was mailed notifying applicant that the declaration was not in compliance with 37 CFR 1.497 and were given one month to provide an acceptable declaration, or file a petition to change the name of the inventor.

On 09 August 2006, applicants filed the subject petition which was accompanied by, *inter alia*, a certified copy of a German court order and the \$400.00 petition fee.

**DISCUSSION**

Section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedures (MPEP) states, in part:

The petition must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, **or** a certified copy of the court order.

In the response filed 09 August 2006, applicants' petition to change the name of the second inventor and have provided the requisite \$400.00 petition fee and a certified copy of the court order as required.

This evidence would have been acceptable for a grantable petition.

However, the court order submitted to the Office as the required proof needed for a grantable petition is in German without an English translation. The Office does not accept foreign language documents as evidence without an accompanying English translation.

### **CONCLUSION**

For the reason discussed above, applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

The declaration filed 10 November 2005 is still not in compliance with 37 CFR 1.497(a) and (b).

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302